

## **REMARKS**

### **OVERVIEW**

The claims now in the case are 1-2, 4, and 6-14. The independent claims in the case are 1, 11, 12 and 13. Each of the independent claims have been amended to more particularly emphasize features of the invention that clearly distinguish the invention from the primary reference Barratt (6,005,597). In particular, claim 1 has been amended to include the features of claims 3 and 5 and in addition, to specify that the first and second content items are selected to a continuous schedule, such that the second content item is automatically selected in continuation of the first item. Basis for these amendments is clearly found in the original claims and in the Specification page 7, lines 3-7 of the published application.

### **CLAIM REJECTIONS**

Claims 1-3, 6 and 8-14 have been rejected as anticipated by Barratt. It is submitted that the amendments here presented render these anticipation rejections moot. Barratt is concerned with providing the user with a list of content items on channels, drawn from a large number of channels based on user preferences for users having substantially the same user preferences. For example, if the user habitually watches Star Trek, and data from other viewers indicate that viewers of Star Trek typically like watching science fiction, science fiction programs will be noted as a user preference, and other programs will be presented to the user for selection (column 2, lines 19-22 and 34-39).

However, according to Barratt (6,005,597), the user still has to activate the function to bring up the list, and then select a program from that list (column 2, lines 61-64), which is undesirably time-consuming.

In contrast, according to the invention of the amended claims, content items are selected and presented to a group of users without user input, so that a group of users with similar preferences may automatically stay tuned to the programs of interest. The selection control means builds a continuous schedule, sets the sequential order of the content items, and selects the content items in continuation. An example of such a schedule is provided in Table 1 on page 7 of the published application.

Clearly then as to the amended claims, the rejection over Barratt as anticipatory is moot.

Barratt also does not make the amended claims obvious in consideration of the Barratt reference in combination with De Saint Marc (U.S. 6,839,901), and with respect to claim 5, Barratt in view of Schein (6,002,394).

With respect to the amended claims, there are elements provided in the amended claims missing in their entirety from all of the references, i.e., both the primary reference, Barratt, and the secondary references. For example, not one of these prior art documents provide automatic and sequential selection of programs in accordance with the preference of a group of users; since there are elements missing as described in the amended claims, it necessarily follows that those elements cannot be obvious to one of ordinary skill in the art unless there is evidence presented by the Examiner to support that conclusion. Here, there can be no such evidence since there are elements missing from the amended claims and one of ordinary skill in the art would not have thought to use those elements, see KSR Intern. Co. v. Teleflex, Inc., 127 S.Ct. 1727 (2007).

Applicants have made a sincere effort to correspond the claims to the scope of their non-obvious contribution. It is believed that all of the claims are now in proper form for allowance.

With respect to claim 14 as being non-statutory, Applicant has amended claim 14 to conform to U.S. practice for computer programming claims and thus the 35 U.S.C. § 101 rejection as non-statutory subject matter has been rendered moot.

## CONCLUSION

This is a request under the provision of 37 CFR § 1.136(a) to extend the period for filing a response in the above-identified application for three months from July 30, 2008 to October 30, 2008. Applicant is a large entity; therefore, please charge Deposit Account No. 26-0084 in the amount of \$1,110.00 to cover the cost of the three-month extension. Any deficiency or overpayment should be charged or credited to Deposit Account 26-0084.

No other fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



EDMUND J. SEASE, Reg. No. 24,741  
McKEE, VOORHEES & SEASE, P.L.C.  
801 Grand Avenue, Suite 3200  
Des Moines, Iowa 50309-2721  
Phone No: (515) 288-3667  
Fax No: (515) 288-1338  
**CUSTOMER NO: 22885**

Attorneys of Record

- pw -